

**Before the Federal Communications Commission
Washington, D.C. 20554**

June 18, 2016

In the Matter of

Schools and Libraries Universal Service
Support Mechanism

Request for Review of a Decision of the
Universal Service Administration by

St Pius X School

CC Docket No. 02-6

Request for Waiver

Appellant Name: St Pius X School

Billed Entity Number: 6743

For 471: 981333

Funding Request Numbers: 2675183

Service Providers:

OV LLC – SPIN 143034500

Submitted by:

Ben Sniecinski

E-Rate Advantage

106 Lilac Drive

Annandale, NJ 08801

Phone: 908-892-0705

Fax: 888-527-5449

ben@erateadvantage.com

Introduction:

This is a request for a waiver of the Commission's invoice deadline rule. The school's invoice was denied by USAC because it was certified by the service provider after the deadline had passed. We believe this was due to a malfunction of the USAC system, an extraordinary circumstance beyond the service provider's control.

On 8/18/15 we submitted an online BEAR form for a 2014-2015 application- see attached BEAR form. This submittal was two months before the invoice deadline.

On October 28th, the school's consultant reached out to the service provider - OV LLC - please see the enclosed e-mail, and was told that all invoices in their system would be certified on time.

We believe there was a malfunction in the USAC system because the service provider never received a notification from USAC that the BEAR was in the system and ready for certification. The notification from USAC of the BEAR did not show up in the service provider system until May 2016. Nor did the actual BEAR form. According to the service provider, OV LLC, there was no BEAR form in their system to actually certify.

Please see the attached e mail from the service provider dated May 3, 2016, shortly after OV LLC found this invoice and certified it.

This is an extraordinary circumstance beyond the school's or service provider's control and we request the FFC to grant a waiver of the invoice deadline rule and allow the school to re-file the BEAR form.

Argument:

1. We argue, except for this procedural error, St Pius X School acted consistently with all rules and should not be punished for one error, something that will no longer be required as of July 1, 2016.
 - a. The School timely filed our 470
 - b. The School waited 28 days
 - c. The School timely filed our 471
 - d. The School successfully completed the review process
 - e. The School were issued a positive Funding Commitment Decision Letter (FCDL)
 - f. The School filed our BEAR form over 2 months before the BEAR form deadline. This is well within a reasonable timeframe for it to be certified.
 - g. The school's representative even reached out to OV LLC before the deadline to make sure that all BEAR forms, submitted, would be certified on time and was assured that they would be.
2. With the 2014 E-Rate Modernization Order, the Commission recognized the need for a simplification of USAC's invoicing process and made changes to eliminate the need for service providers to have to approve every FCC Form 472.

Therefore, we believe it is unfair to punish an application for a rule that the commission already views as burdensome and hence is in the process of eliminating and will do so in less than a month.

- a. "We direct the Bureau and OMD to work with USAC to implement the new direct reimbursement process. We recognize that the current FCC Form 472 requires a service provider to certify that: (1) it must remit the discount amount authorized by the fund administrator to the Billed Entity Applicant; (2) it must remit payment of the approved discount amount to the Billed Entity Applicant; and (3) it is in compliance with the rules and orders governing the schools and libraries universal service support program.¹ Because service providers will no longer serve as a pass-through for payment, they will not be required to approve every FCC Form 472...."
3. We believe that USAC and the FCC are going to argue that we had an opportunity to file, and be granted, a 1-time 120 day extension. We do not deny that, however, we would contend that even if we did file, and were granted, that extension it still would have been too late. As you can see from the OV LLC Letter, from Janeen Long-Williams, our BEAR form did not show up in their system until May 2016. This would have been well beyond the 120 extension window. We are arguing this is an extraordinary circumstances that are beyond the school's and service provider's control.
4. We also make the case that USAC never sent any warnings about this BEAR form not being certified. As has been common practice with USAC, in years past, they have sent reminder e-mails for forms that have not been filed. Most common are their e-mails to entities who have filed 470 applications but who are yet to have a 471 associated with that entity (Form 470 but No Form 471) or the Form 486 Urgent Reminder Letter. We argue that if USAC had a proactive procedure in place for BEAR forms, arguably one of the most important program forms, this might have helped our school and OV LLC, recognize that something was wrong and given them an opportunity to try and correct it.
5. We ask the FCC go back to the Bishop Perry Order and reread Paragraph 2 of the Introduction: We believe by doing so they will see that it has always been the Commissions intent to simplify the program and allow for the correction or errors. We believe that this denial is not in the best interest of the program. It is a procedural error that the commission has stated should be correctable.
 - a. "As we recently noted, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a significant number of applications for E-rate support being denied for ministerial, clerical or procedural errors. We find that the actions we take here to provide relief from these types of errors in the application process will promote the statutory requirement of section 254(h) of the Communications Act of 1934, as amended (the Act), by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services. In particular,

¹ See BEAR Form.

we believe that by directing USAC to modify certain application processing procedures and granting limited waivers of our applications filing rules, we will provide for a more effective applications processing system that will ensure eligible schools and libraries will be able to realize the intended benefits of the E-rate program as we consider additional steps to reform and improve the E-rate program.”

6. We believe that this extension should be granted so the school can retrieve their money that has already been committed to them. There is no burden to the Universal Service Fund. This money has already been approved and earmarked for the school. The only burden would be for this small school that no longer has access to their approved funds. Fund they count on for day to day operations.
7. We make the argument that the spirit of the 1st Modernization Order, Paragraph 240, “the Bureau should grant waivers of those rules in extraordinary circumstances.” This is an extraordinary circumstance.
 - a. At the same time, we agree with commenters that there may be circumstances beyond some applicants’ or service providers’ control that could prevent them from meeting the 120-day invoice filing deadline.² Therefore, we adopt a rule allowing applicants to seek and receive from USAC a single one-time invoicing extension for any given funding request, provided the extension request is made no later than what would otherwise be the deadline for submitting invoices: the latter of 120 days after the last day to receive service, or the date of the FCC Form 486 notification letter.³ By adopting such a rule, we eliminate the need for applicants and service providers to identify a reason for the requested extension and the need for USAC to determine whether such timely requests meet certain criteria, which will ease the administrative burden of invoice extension requests on USAC.⁴ In the interest of efficient program administration, USAC shall grant no other invoicing deadline extensions. Moreover, in considering waivers of our new invoicing rules, we find that it is generally not in the public interest to waive our invoicing rules, and therefore the Bureau should grant waivers of those rules in extraordinary circumstances.
8. 1st Modernization Order, the third goal is to “Making the E-rate application process and other E-Rate process Fast, Simple and efficient.” Paragraph 55: The denial of this BEAR form definitely makes the E-rate process fast but not simply or efficient. We argue that a denial such as this only complicates and already complicated program. This is why the 1st Modernization Order came about, to try and make the program faster, simpler and more efficient. A ruling such as this only hinders those goals.

² See, e.g., ALA NPRM Comments at 30; CenturyLink NPRM Comments at 26; FFL NPRM Comments at 59-60; Iowa DOE NPRM Comments at 15.

³ See 47 C.F.R. § 54.514 as amended herein.

⁴ See USAC Invoice Extension Procedures. See, e.g., ALA NPRM Comments at 30; Amy Biehl NPRM Comments at 2; CenturyLink NPRM Comments at 27-28; FFL NPRM Comments at 59-60; Iowa DOE NPRM Comments at 15; USTA NPRM Comments at 13.

- a. We adopt as our third goal making the E-rate application process and other E-rate processes fast, simple, and efficient.⁵ Each year, USAC reviews tens of thousands of funding requests from schools and libraries, and processes thousands of appeals, invoice requests, deadline extension requests, and additional inquiries from schools, libraries, and other parties requesting information.⁶ Simplifying and improving these procedures will help applicants receive their funding in a timely fashion, which will allow them to plan better and maximize the impact of their support. Simplification of the E-rate application process also eases the administrative burden on applicants—which is particularly important for smaller schools and libraries that lack extensive administrative support.⁷ Conversely, complexity and delay discourage participation and ultimately result in fewer schools and libraries fully investing in needed high-speed broadband connections.
9. In the most recent Ada School District Order – footnote 6: Allows for extensions in certain situations, bullet (9) – circumstances beyond the service providers control. We argue that this situation is beyond OV LLC’s control.
 - a. See, e.g., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26950, para. 93 (2003) (noting that USAC provides an extension of the deadline to file invoices under certain conditions, including (1) authorized service provider changes; (2) authorized service substitutions; (3) no timely notice to USAC (e.g., the service providers’ Form 486 Notification Letter is returned to USAC as undeliverable); (4) USAC errors that result in a late invoice; (5) USAC delays in data entering a form that ultimately result in a late invoice; (6) documentation requirements that necessitate third party contact or certification; (7) natural or man-made disasters that prevent timely filing of invoices; (8) good Samaritan BEARs; and (9) circumstances beyond the service providers control).
10. Lastly, and most importantly, we argue that there was some type of system glitch that caused this BEAR form not to appear in the USAC BEAR system. As you can see from the letter by Janeen Long-Williams, “we never received any notification that these BEAR forms were filed and awaiting our certifications. We never saw them in our system until recently.” This e-mail is dated May 3, 2016. As we mentioned earlier from the Ada Order footnote 6 states that, “USAC provides an extension of the deadline to file invoices under certain conditions including (9) circumstances beyond the service providers control.” We argue that this is a circumstance beyond the service provider’s control. The service provider cannot certify a BEAR form that they are not aware exists or that they cannot find in USAC’s system.

⁵ See *E-rate Modernization NPRM*, 28 FCC Rcd at 11318-19, paras. 45-46.

⁶ *Id.* at 11318-19, para. 45.

Summary

St Pius X School should not be punished for a system glitch, and situation outside of their control and outside of the service provider's control. We ask the FCC to waive their Invoice Deadline rule and allow St Pius X School to file a new BEAR form and recoup their money to which they have been awarded. They followed all e-rate rules leading up to this, there is no waste fraud or abuse, just a simple mistake which there is a clear remedy.

We respectfully request the FCC waive this rule and allow St Pius X School the opportunity to re-file their BEAR form and recoup the money they are entitled to.

Thank you,

Ben Sniecinski

[BEAR Home](#)[New BEAR Form](#)[Track Form](#)[Bulk Download](#)[Terms and Conditions](#)[Logout](#)

Track BEAR Forms

Please choose from one or more of the following search options:

Created Date Range:	From:	<input type="text" value="08/01/2015"/>	To:	<input type="text" value="09/23/2015"/>
Dollar Amount:	Min:	<input type="text"/>	Max:	<input type="text"/>
SPIN:		<input type="text"/>		
Invoice Id:		<input type="text"/>		
Applicant Form Identifier:		<input type="text"/>		

Display Results As:



BEAR



FRN

Search Results:

Invoice Id	Applicant Form Identifier	SPIN	Status	Reimbursement Amount	Contact Name	Date Created
2226922		143001362	COMPLETED	\$567.16	BEN SNIECINSKI	8/18/2015 9:42:13 AM
2226925		143034500	COMPLETED	\$88.83	BEN SNIECINSKI	8/18/2015 9:46:24 AM

Subject: FW: 2014 BEAR Forms awaiting certification
Date: Saturday, June 18, 2016 at 10:02:31 AM Eastern Daylight Time
From: Ben Sniecinski
To: Ben Sniecinski
Category: Work

From: Erate [<mailto:ERATE@cablevision.com>]
Sent: Wednesday, October 28, 2015 9:54 AM
To: 'Kristin Sniecinski' <kristin@erateadvantage.com>
Cc: Ben <ben@erateadvantage.com>
Subject: RE: 2014 BEAR Forms awaiting certification

Hello Kristin,

All the invoices will be processed, have a good day.

Thank you,

Janeen Long

B&C Research & Support

(516) 803-2119 (office)

(516) 513-3004 (fax)

erate@cablevision.com

From: Kristin Sniecinski [<mailto:kristin@erateadvantage.com>]
Sent: Monday, October 26, 2015 8:41 PM
To: Erate <ERATE@cablevision.com>
Cc: Ben <ben@erateadvantage.com>
Subject: 2014 BEAR Forms awaiting certification

Janeen,

Many of the 2014 BEAR Forms we submitted for our schools have not been certified by your organization yet. I have included some of the invoice ids below. Will these be certified by this Wednesday's deadline? If not, will you be filing invoice extensions for these?

SPIN 143034500

Invoice ID: 2223898
Invoice ID: 2219882
Invoice ID: 2232618
Invoice ID: 2232720
Invoice ID: 2231340
Invoice ID: 2235059
Invoice ID: 2233530
Invoice ID: 2229814
Invoice ID: 2232679
Invoice ID: 2232661
Invoice ID: 2219346
Invoice ID: 2233453

SPIN 143007246

Invoice ID: 2233517
Invoice ID: 2233521
Invoice ID: 2222384

Thank you,

Kristin

Kristin Sniecinski
E-Rate Advantage
Phone: 908-894-3114
Fax: 888-878-5371
kristin@erateadvantage.com
www.erateadvantage.com

The information transmitted in this email and any of its attachments is intended only for the person or entity to which it is addressed and may contain information concerning Cablevision and/or its affiliates and subsidiaries that is proprietary, privileged, confidential and/or subject to copyright. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient(s) is prohibited and may be unlawful. If you received this in error, please contact the sender immediately and delete and destroy the communication and all of the attachments you have received and all copies thereof.

Subject: Pending Invoices

Date: Tuesday, May 3, 2016 at 11:36:20 AM Eastern Daylight Time

From: Janeen Long-Williams

To: Ben Sniecinski (ben@erateadvantage.com)

Mr. Sniecinski,

Please be advised at the service provider for the below invoices/FRN's, we never received any notification that these BEAR forms were filed and awaiting our certification. We never saw them in our system until recently.

When an applicant files a BEAR form online, the service provider is supposed to get a confirmation e-mail letting them know that a BEAR form has been filed and needs to be certified. That invoice should also appears in the service providers online portal for certification.

Cablevision/OV LLC as the schools service provider, never received the e-mail notification nor were able to view these BEAR forms in our system until recently.....when we reached out to you. The invoices and FRN's in question are as follows:

1. Invoice 2226925 FRN 2675183
2. Invoice 2254706 FRN 2673172
3. Invoice 2254716 FRN 2673174
4. Invoice 2257516 FRN 2673118
5. Invoice 2257499 FRN 2673125

Please contact USAC to request a waiver of the invoice extension deadline so that these schools can file their BEAR forms, we can certify them, and they can get the money they deserve.

There is no reason a computer glitch should be the reason these schools are not afforded this opportunity.

Thank you,

Janeen Long-Williams

B&C Research & Support

(516) 803-2119 (office)

(516) 513-3004 (fax)

jwillia1@cablevision.com

The information transmitted in this email and any of its attachments is intended only for the person or entity to which it is addressed and may contain information concerning Cablevision and/or its affiliates and subsidiaries that is proprietary, privileged, confidential and/or subject to copyright. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient(s) is prohibited and may be unlawful. If you received this in error, please contact the sender immediately and delete and destroy the communication and all of the attachments you have received and all copies thereof.
